

## REMARKS

Claims 1, 3-8, 54-57, and 72-91 are pending in this application. Claims 82-91 are new. Claim 1 is currently amended to correct grammar. Claims 2, 9-27, 29-31, 33-36, and 50-52 are cancelled without traverse. Claims 28, 32, 37-49, 53, and 58-71 are withdrawn.

**Claims 1, 3-8, 54-55, 72-79 and 81 are rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 6,044,146 to Gisby et al. (hereinafter "Gisby") in view of Yacenda et al. (U.S. 5,515,426).**

### **Regarding Claim 1,**

Claim 1 recites:

*1. (Currently Amended) A computer-implemented method for the intermediation of real time meetings, comprising:*  
*receiving an indication by a requester system that a requester (R-A) wants to request a realtime meeting M-A with a target T-A;*  
*sending to a decider system (D) a request to conduct the real time meeting M-A;*  
*queuing the request for the meeting M-A by the decider system;*  
*receiving by the decider system (D) an availability status of T-A;*  
*receiving by the decider system (D) an availability status of R-A, where a possible availability status includes [""]not available[""];*  
*receiving an indication by the requester system that a requester (R-B) wants to request a realtime meeting M-B with target T-B, the meeting M-B to be disjoint in time with the meeting M-A; and such that one of the parties to M-A (R-A or T-A), known as the 'common party' is also the same as one of the parties to M-B (R-B or T-B) and thus there are three distinct parties, the decider D being associated with the common party;*  
*sending to the decider system (D) a request to conduct a real time meeting M-B;*  
*queuing the request for the meeting M-B by the decider system, such that requests for at least two distinct meetings, disjoint in time are placed in the queue, so that multiple pending real time meetings for the common party are in the queue at the same time;*  
*receiving by the decider system (D) an availability status of target T-B;*  
*receiving by the decider system (D) an availability status of the requester R-B,*  
*where a possible availability status includes not available;*  
*initiating, by the decider, one of the two meetings M-A and M-B by connecting the common party and the other party to that meeting when the common party and that other party are mutually available; and*  
*dequeuing the request for a meeting upon its completion.*

Claim 1 is amended to correct punctuation and antecedent basis.

In rejecting Claim 1, the Examiner suggests that column 5 lines 20-40 and 45-62, column 6 lines 35-50, and column 7 lines 1-10 and 32-52 of Gisby teach “*receiving by the decider system (D) an availability status of R-A, where a possible availability statuses includes not available.*” The Applicant traverses this suggestion.

Those parts of Gisby cited by the Examiner teach that an incoming call can be assigned a priority and that a call can be positioned in the queue based on the call’s priority. The priority may be assigned, for example, using caller ID and information stored in a call center database. The Applicant is unable to find any teaching that the priority of Gisby is based on an availability status of the caller.

It is the position of the Applicant that one of ordinary skill in the art would not consider the “*availability status*” of Claim 1 to be the same as the “priority” of Gisby. For example, as discussed in the current application, “*availability status*” can include “available,” “in a meeting,” or “unavailable,” etc. These statuses need not be ranked. It would not make sense to call “in a meeting” a priority. In contrast, Gisby teaches that a priority is a numerical ranking such as the values 10, 9, 8, 5, 3, and 1 shown in Fig. 3. These values are distinctly different from “available,” “in a meeting,” etc. Thus, the “priority” of Gisby does not teach “*availability status*” as recited in Claim 1.

The Examiner states “the availability status of R-A (the requester) is based on priority and thus the requester can be gotten based on this status.” The Applicant is unable to find any support for this statement in the cited art. Specifically, the only thing that appears to be based on priority in Gisby is position within the Queue 69. While, this may eventually be related to the availability of agents, it is not related to availability of

the **requestor**. For example, a caller who is waiting on hold is available whether or not they have the highest or lowest priority.

The Applicant further notes that the specification and claims (e.g., Cl. 73 and 75) treat priority as something separate from availability. It is the position of the Applicant that this use further distinguishes priority from availability as used in Claim 1.

Further, in rejecting Claim 1 the Examiner states “Yacenda et al. discloses that the requestor (who called an unavailable target party) leaves his/her number for callback and then when the target party becomes available, the requestor is no longer available (and thus his/her status is unavailable).” The Applicant traverses this statement.

Those parts of Yacenda cited by the Examiner teach determining if a **called** party is unavailable. See, for example, step 1910 in Fig. 24. In the context of Claim 1, the called party would be the target and the caller would be the requestor. Thus, the unavailability that is determined in Yacenda is again that of a target not a requestor.

In contrast, Claim 1 recites “*receiving by the decider system (D) an availability status of R-A, where a possible availability status includes not available.*” In Claim 1, it is the requestor not the target whose status may be “*not available.*” As pointed out above, Yacenda does not teach determining unavailability of a requestor. Thus, even in combination, the cited art does not teach all of the limitations of Claim 1.

Further, the Applicant points out that in the teachings of Yacenda the caller presumably hangs up after setting up the call back options. This action does not necessarily make the caller unavailable in some embodiments of the current invention. A caller can hang up and still be available. Availability is with regard to whether a party is ready to join in a meeting (e.g., call) and not whether they are holding on the line. See, for example, page 3 lines 3-6, and page 6 line 12 through page 7 line 6 of the current

specification as filed. To suggest that the caller hanging up teaches receiving an availability status of not available would be interpreting the term availability status in a manner that is contradictory to the specification.

The Applicant, therefore, requests that the Examiner specifically point out teaching of "*where a possible availability statuses includes not available*" within the cited art or allow Claim 1 and those claims that depend therefrom.

Regarding the combination of Gisby and Yacenda, it is the position of the Applicant that the combination suggested by the Examiner would result in an unworkable combination. To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP § 2143 - § 2143.03.

The teachings of Yacenda require that the calling party be on the same PBX as the party issuing the callback or connected wirelessly. (See Fig. 2, column 1 lines 62 through column 2 line 20.) This is required in order for the party issuing the call back to know the status of the telephone line. However, in Gisby, it would be extremely unlikely that a person calling into a call center would be on the same PBX as the call center. Therefore, if Gisby and Yacenda were combined as suggested by the Examiner, there would be no way for the call center to know the status of the calling party's line. For the sake of

argument, even if there were methods by which the call center could know the status of the calling party's line, such methods are not taught in either reference. It is, therefore, the position of the Applicant that the combination proposed by the Examiner does not have a reasonable expectation of success as required for a prima facie case under §103.

For at least the various reasons discussed above, the Applicant believes that Claim 1 and those claims that depend therefrom are allowable.

**Regarding Claim 3,**

Claim 3 recites:

*3. (Previously Presented) The method of claim 1, wherein a system of the target T-A is polled to determine the availability of target T-A.*

In rejecting Claim 3, the Examiner states "See column 4, lines 5-11, wherein the system knows if the target is logged in and busy."

The Applicant respectfully points out that the fact that the system of Gisby knows if an Agent is busy does not necessarily mean that this information is determined by polling as recited in Claim 3. For example, rather than polling, status information could be sent regularly from the system of the target T-A. Polling cannot, therefore, be inferred merely from the system knowing if the target is logged in and busy.

MPEP §2112 provides that "[t]he fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic" citing *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993). Further, "[i]n relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the

applied prior art” citing Ex parte Levy, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). The Applicant, therefore, specifically requests that the Examiner point out a teaching of polling in the cited art, or allow Claim 3.

The limitations of Claim 3 not “necessarily flow” from the teachings of Gisby because there are methods other than polling that could be used to determine availability of the Target. For example, the target system could push this information to the requestor. The limitations of Claim 3 are thus not inherent to the teachings of Gisby.

**Regarding Claim 4,**

Claim 4 recites:

*4. (Previously Presented) The method of claim 1, wherein the system of the target T-A sends the availability status of target T-A to the decider system.*

As in the rejection of Claim 3, the Examiner appears to be making an improper inference based on the teachings of Gisby. Specifically, it cannot be inferred that “*the system of the target T-A sends the availability status of target T-A to the decider system*” based on mere knowledge that an agent is logged in and busy. This knowledge could be obtained through other methods.

The Applicant, therefore, specifically requests that the Examiner point out a teaching that “*the system of the target T-A sends the availability status of target T-A to the decider system*” in the cited art, or allow Claim 4.

**Regarding Claims 5 and 6,**

Claim 5 recites:

*5. (Previously presented) The method of claim 1, wherein a system of a party is polled to determine the party’s availability.*

Claim 6 recites:

*6. (Previously presented) The method of claim 1, wherein the system of a party sends the party's availability status to the decider system.*

It is the position of the Applicant that Claims 5 and 6 are allowable for at least reasons similar to those discussed above with respect to Claims 3 and 4, and the same reasons as Claim 1 from which they depend.

**Regarding Claim 7,**

Claim 7 recites:

*7. (Previously Presented) The method of claim 1, wherein mutual availability is determined by checking the availability of one of the target/requester pairs T-A/R-A and T-B/R-B*

The Examiner suggests that the limitations of Claim 7 are taught by “column 5 lines 5-11, wherein the system knows if the target is logged in and busy or available... [and] column 3 line 1-15, column 4 lines 55-67, column 5 lines 35-40, column 6 lines 35-50 and column 7 lines 1-20 and 39-55, which discusses availability and priority of the requestor.” The Applicant traverses these suggestions.

Specifically, while the text cited by the Examiner discusses caller priority and agent availability, the Applicant is unable to identify any discussion of caller availability within Gisby. As discussed above, call priority is not caller availability. Because Gisby does not teach use of caller availability, Gisby cannot determine mutual availability “*by checking the availability of one of the target/requester pairs T-A/R-A and T-B/R-B,*” as recited in Claim 7. The Applicant, therefore, requests that the Examiner specifically point out a teaching of checking caller availability within the cited art, or allow Claim 7.

**Regarding Claim 8,**

Claim 8 recites:

*8. (Previously Presented) The method of claim 1, wherein a request is sent to a plurality of targets and mutual availability is determined when the requester and one of the plurality of targets is available.*

It is the position of the Applicant that Claim 8 is allowable for at least the same reasons as Claim 7 and Claim 1. Specifically, Gisby does not teach uses of the availability of the requestor.

**Regarding Claim 54,**

Claim 54 recites:

*54. (Previously Presented) The method of claim 1, further comprising displaying the availability status of one of the requesters R-A and R-B on the target system, along with an indication that one of the requesters R-A and R-B has requested a meeting.*

The Examiner suggests that the limitations of Claim 54 are taught by column 6 lines 45-60, column 8 lines 25-45, “wherein the target receives a pop-up concerning the requester.” The Applicant traverses this suggestion.

The text cited by the Examiner teaches notifying an agent of the priority status of a next call (column 6 lines 52-53) and a pop-up used to inform an agent of the priority status. However, the Applicant is unable to identify any teaching that the availability status of one of the requesters is determined, much less displayed to the agent. The Applicant, therefore, requests that the Examiner specifically point out displaying of an availability status, or allow Claim 54, and those claims that depend therefrom.

**Regarding Claim 55,**

Claim 55 recites:

*55. (Previously Presented) The method of claim 54, wherein the availability status is one of in, out, and unknown.*

The Examiner suggests that the limitations of Claim 55 are taught by column 5 lines 5-11, “wherein the system knows if the target is logged in,” and column 7 lines 1-10 and 30-37, “which discusses further status information about a logged in agent.” The Applicant traverses these suggestions.

The text cited by the Examiner relates to the availability of an agent.



In contrast, *“the availability status”* of Claim 55 is the availability status of a requestor, not an agent. Specifically, the *“availability status”* referred to in Claim 55 is *“the availability status of one of the requesters”* as recited in Claim 54. It is this availability status that is *“one of in, out, and unknown.”*

Because the availability status of an agent does not teach an availability status of a requestor, the art cited by the Examiner does not teach the limitations of Claim 55.

Further, the Examiner has previously suggested that there is a relationship between *“priority”* and *“availability status.”* In Claim 55, the *“availability status”* is specified as being *“one of in, out, and unknown.”* The Applicant respectfully points out that it would not make sense for a priority to be *“one of in, out, and unknown.”*

**Regarding Claims 72-77, 79 and 81,**

It is the position of the Applicant that Claims 72-77, 79 and 81 are allowable for at least the same reasons as Claim 1, from which they depend.

**Regarding Claim 78,**

Claim 78 Recites:

*78. (Previously Presented) The method of claim 1, wherein a non-common requester is party to another, distinct meeting request.*

In rejecting Claim 78, the Examiner suggests that the limitations of Claim 78 are taught by figures 2-3, column 3 lines 1-20, column 5 lines 20-40, column 6 lines 35-45, column 7 lines 1-15 and 35-50, *“wherein a second request for an agent is received, the request is queued, and wherein a queue of callers requesting an agent is formed.”* The Applicant traverses these suggestions.

As discussed above, the art cited by the Examiner teaches a queue of callers requesting a meeting. However, the requests are not specific to a particular target agent. Further, even if one were to assume for the sake of argument that an **agent** could be a party to more than one request, the Applicant is unable to identify any teaching that

indicates that a **caller** is a party to more than one request. Each caller appears to make only one request.

In contrast with the cited art, the limitations of Claim 78 recite that a “*requester is party to another, distinct meeting request.*” Thus, the *requestor* is a party to more than one distinct meeting request. The Applicant, therefore, requests that the Examiner more specifically point out a teaching that a “*requester is party to another, distinct meeting request,*” or allow Claim 78.

**Claims 56-57 and 80 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,044,146 to Gisby et al. in view of Yacenda et al. (U.S. 5,515,426) and in further view of Vaio (U.S. Patent No. 6,272,210).**

With regard to the obviousness of combining the above art, the Applicant maintains the arguments made in the previous communication.

**Regarding Claims 56 and 80**, the Applicant believes that Claims 56 and 80 are allowable for at least the same reasons as Claim 1, from which they depend.

**Regarding Claim 57,**

Claim 57 recites:

*57. (Previously Presented) The method of claim 56, wherein the availability status is one of in, out, and unknown.*

In rejecting Claim 57, the Examiner suggests that the limitations of Claim 57 are taught by (Gisby) column 5 lines 5-11, “wherein the system knows if the target is logged in,” and column 7 lines 1-10 and 30-57, “which discusses further status information about a logged in agent.”

The Applicant traverses these suggestions. The cited art teaches that an agent may have a status regarding, for example, a level skill or a language ability.

In contrast, Claim 57 recites “*the availability status is one of in, out, and unknown.*” The Applicant is unable to identify any teaching within the cited art of a status of “*unknown.*” The Applicant, therefore, requests that the Examiner specifically point out such a teaching within the cited art, or allow Claim 57.

#### **Regarding New Claims 82-91**

The Applicant believes that new Claims 82-91 do not include new matter.

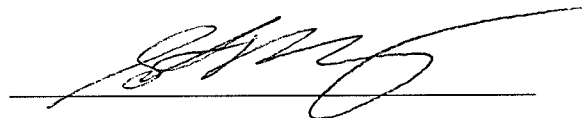
The Applicant believes that all pending claims are allowable and respectfully requests that the Examiner issue a Notice of Allowance. Should the Examiner have questions, the Applicant's undersigned representative may be reached at the number provided below.

In addition, Applicant respectfully invites the Examiner to contact Applicant's representative at the number provided below if the Examiner believes it will help expedite furtherance of this application.

Respectfully submitted,

BRADLEY S. TEMPLETON

Date: May 22, 2007

A handwritten signature in dark ink, appearing to read 'S. Colby', is written over a horizontal line.

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